IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL REVISION APPLICATION NO.423 OF 2006

Pradip Suresh Bhintade .. Applicant

V/s.

Mahadeo Dattatraya Chinchore & Anr. .. Respondents.

Shri.Milind Deshmukh for the applicant.

Shri.Uday Warunjikar for respondent No.1.

Shri.Rajesh More, A.P.P. for the State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 12TH DECEMBER, 2006

P.C.:

1. This revision application is at the instance of the petitioner-accused, who is proceeded against for the offences punishable u/s.138 of the Negotiable Instruments Act.

. It appears that the complaint bearing No.SCC 1298/2002 instituted by the first respondent is pending

since 2002. The respondent-original complainant has filed his affidavit in lieu of the examination-in-chief sometime in the year 2004. The applicant applied for time to cross examine the original complainant which application was earlier granted. However, when the applicant's advocate and the applicant was absent, the learned Judge passed an order closing the evidence on behalf of the original complainant. In other words, the order is "NO CROSS". That order was passed on 10th April, 2006. The application was made to recall that order on 2nd June, 2006. That application has been rejected by the impugned order and that is why the revision application is filed.

. Ordinarily this Court does not interfere in these orders, procedural as they are and without any impropriety or perversity being pointed out.

. These orders are passed to ensure expeditious disposal of the complaint u/s. 138 of Negotiable Instruments Act.

. However, considering the peculiar facts and circumstances of this case and in the light of the undertaking given by the applicant that on the date and

time determined by this Court, he would conclude this cross examination, the order under challenge is set aside.

. The applicant and the original complainant to appear before the Judicial Magistrate First Class, Daund on 20th December, 2006 at 11.00 a.m. and the learned Judge to then allow the applicant to cross examine the original complainant. The applicant states that he shall conclude the cross examination on that date. Further, the applicant undertakes to remain present and states that neither he nor his advocate would apply for adjournment on that date.

. In these circumstances, liberty is granted to the applicant to cross examine the original complainant. The applicant to abide by the above undertaking. Needless to state, if the applicant does not remain present or his advocate seeks an adjournment and does not proceed with the cross examination on the said date i.e. on 20th December, 2006, it would be open for Judicial Magistrate First Class to pass such order as is permissible in law without being influencd by the disposal of the present revision application.

(S.C.Dharmadhikari, J.)